

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ APR 12 2006 ★

BROOKLYN OFFICE

-----X
U.S. BANCORP EQUIPMENT FINANCE, INC.,

Case No. CV-06-0278
Judge John Gleeson

Plaintiff,

- against -

PROPOSED ORDER
OF SEIZURE

KERN INDUSTRIES, INC. and JOHN KERN,

Defendants.
-----X

U.S. Bancorp Equipment Finance, Inc.'s ("US Bancorp") Motion For Order Of Seizure (the "Motion") came on for hearing on April 7, 2006. Due and proper notice of the Motion was given. No Opposition to the Motion having been filed. The Court having considered the Motion, argument of counsel, and for good cause shown, rules as follows:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Motion is granted in its entirety;
2. The United States Marshal in the Eastern District of New York is authorized and directed to break open, enter and search for the equipment set forth in Exhibit "1" attached hereto and incorporated herein by reference (the "Equipment") at 70A Carolyn Boulevard, Farmingdale, New York 11735 (the "Farmingdale Location"). The Marshal shall seize and remove the Equipment. If the Equipment is not found by the Marshal at the Farmingdale Location, then, upon the Marshal being furnished with a further affidavit on behalf of US Bancorp showing a likely specific location of the Equipment, which affidavit shall be filed with

the Court prior to such seizure, the Marshal shall break open, enter and search for the Equipment in said likely specific location, and shall seize the Equipment; and it is further;

ORDERED, the Marshal shall retain the Equipment for ten days after seizure pursuant to CPLR § 7102(f) and at the expiration of that time, the Marshal shall deliver the Equipment to US Bancorp; and it is further;

ORDERED, that Kern Industries, Inc., John Kern, and their respective agents, servants and employees be and hereby are stayed from removing the Equipment and from concealing the same, transporting the same, selling, hypothecating or in any way transferring or disposing of same; and it is further;

ORDERED, that after entry of this Order, US Bancorp shall post an undertaking in the sum of \$ 110,000.

Dated: ~~March~~ ^{April} 7, 2006

s/John Gleeson
UNITED STATES DISTRICT JUDGE

4-7-06

EXHIBIT

One (1) Agfa X45 Semi-Automatic Platesetting System; One (1) Compass Implementation Program; One (1) Agfa Apogee Print Drive Software; One (1) Pittman/Proactive Platform for Print Drive

TOGETHER WITH ALL REPLACEMENTS, PARTS, REPAIRS, ADDITIONS, ACCESSIONS AND ACCESSORIES INCORPORATED THEREIN OR AFFIXED OR ATTACHED THERETO AND ANY AND ALL PROCEEDS OF THE FOREGOING, INCLUDING, WITHOUT LIMITATION, INSURANCE RECOVERIES.